49 S.B.Civil Writ Petition No.3006/2000

Date of Order : 02-08-2004

HON'BLE MR. N.P.GUPTA,J.

Mr.K.L.Jasmetiya , for the petitioner.

Heard learned counsel for the petitioner, and perused the record.

It is contended by learned counsel for the petitioner that the petitioner was occupying the premises since long, and was carrying on business. On the basis of Annex.7, it is contended that he had applied for regularization, and was conferred the status of tenant, where-upon the file proceeded and status of tenant was conferred on him at a monthly rent of Rs. 10/- in July 1999. However, thereafter in wholly illegal manner, his possession has been removed on 31.3.2000.

Reply has been filed on behalf of respondent nos. 2 and 3 wherein, in para no.4, stand has been taken that answering respondents have allotted the land to many other persons for temporary use and occupation under Temporary use and Occupation Rules, on the place which are not used for public road, and never interfered with the public at large. However, no permission was given for construction of any permanent stall. Then, it is pleaded that in the Chairman-ship of learned Collector, Nagaur, the meeting was convened, wherein, it has been resolved that temporary encroachment made on main roads and market, be taken off with the help of local administration and police administration, and before initiating proceedings, a wide publicity was given through news paper, and all temporary licences issued in the shape of Teh-bazari were cancelled, and main road and main market was opened for the general public at large. A copy of minutes of meeting dated 8.3.2000 has been produced with reply.

Learned counsel for the petitioner, referred to Annex.5, which is note-sheet of Municipality, which shows that rent has been received from the petitioner upto Dec. 1999, but then it has been noted that land is not fit to be continued on temporary occupation and, therefore, vide order dated 29.3.2000, licences were cancelled.

It is not in dispute that on 31.3.2000, the petitioner's possession had already been removed.

In the totality of circumstances, including the fact that the possession has already been removed, I do not find any sufficient ground to restore the possession of petitioner at the place which was in occupation, as it is said to be public way. However, it will be open to the petitioner to apply to the Municipality, for allotment of any appropriate suitable site under Teh-bazari scheme for rehabilitating the petitioner, who was occupying the place, wherefrom he has been removed as Teh-bazari licencee and in the event of petitioner moving any such application, it shall be sympathetically considered. The writ petition is, accordingly disposed of.

(N.P.GUPTA),J.

Srawat/-